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Subject: DA2022/0653 1 Bellevue Parade, North Curl Curl

Fifth objection submission

DA2022/0653 1 Bellevue Parade, North Curl Curl

Previous objection submissions dated 30/5/2022, 21/9/2022, 4/10/2022, 9/11/2022

This objection submission focusses on the NON-COMPLIANCE IN SETBACKS in DA2022/0653, which also includes principles of VIEW SHARING and BUILDING HEIGHT. We outline the Northern Beaches Development Control Plan (DCP), followed by detailed explanations why the DA does not comply regarding setback rulings. The established view loss principles set out in Tenacity Consulting v Warringah [2004] NSWLEC 140 (Tenacity) must be included, with photos to support our case. The DCP provides detailed planning and design guidelines to support the planning controls in the Local Environmental Plan (LEP).

4.1.4 Setbacks (front, side and rear) and Building Separation

Note: *This section addresses the buildings' setback from its various property boundaries.*

Relevant DCP objectives to be met in relation to this part include:

- Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the edge and the landscape character of the street.*
- Objective 2) To ensure and enhance local amenity by:*
- providing privacy;*
 - providing equitable access to light, sunshine and air movement; and*
 - facilitating view sharing and maintaining adequate space between buildings to limit impacts on vistas from private and public spaces.*
 - defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
 - facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the intersection.*

The objectives in the above Section 4.1.4, Setbacks (front, side and rear):

Objective 1 refers to "maintain and enhance existing streetscape". All of the houses on the southern flat side of Bellevue Parade up to North Road, are all two storey, except for No 9. All the two storey houses have a setback from ground floor to first floor whereas 1 Bellevue Parade is already two storey and wanting to go three storeys. The DA has not included any setbacks between the second floor and the additional third floor.



Objective 2 refers to “view sharing” stating that “to ensure and enhance local amenity by: facilitating view sharing”. The established view loss principles are set out in *Tenacity Consulting v Warringah* [2004] NSWLEC 140 (Tenacity) . The final amended Development Application still does not include the view sharing objectives of the DCP and Tenacity. No reasonable amendments have been applied to any of the amended DA’s. All concerns raised in all the objection submissions attached to DA2022/0653 relating to ocean view sharing have been ignored. The applicant had had ample opportunity to amend the DA to help “facilitate view sharing”. The photo shows the severe impact and the lack of view sharing.



4.1.4.1 Street Front setbacks

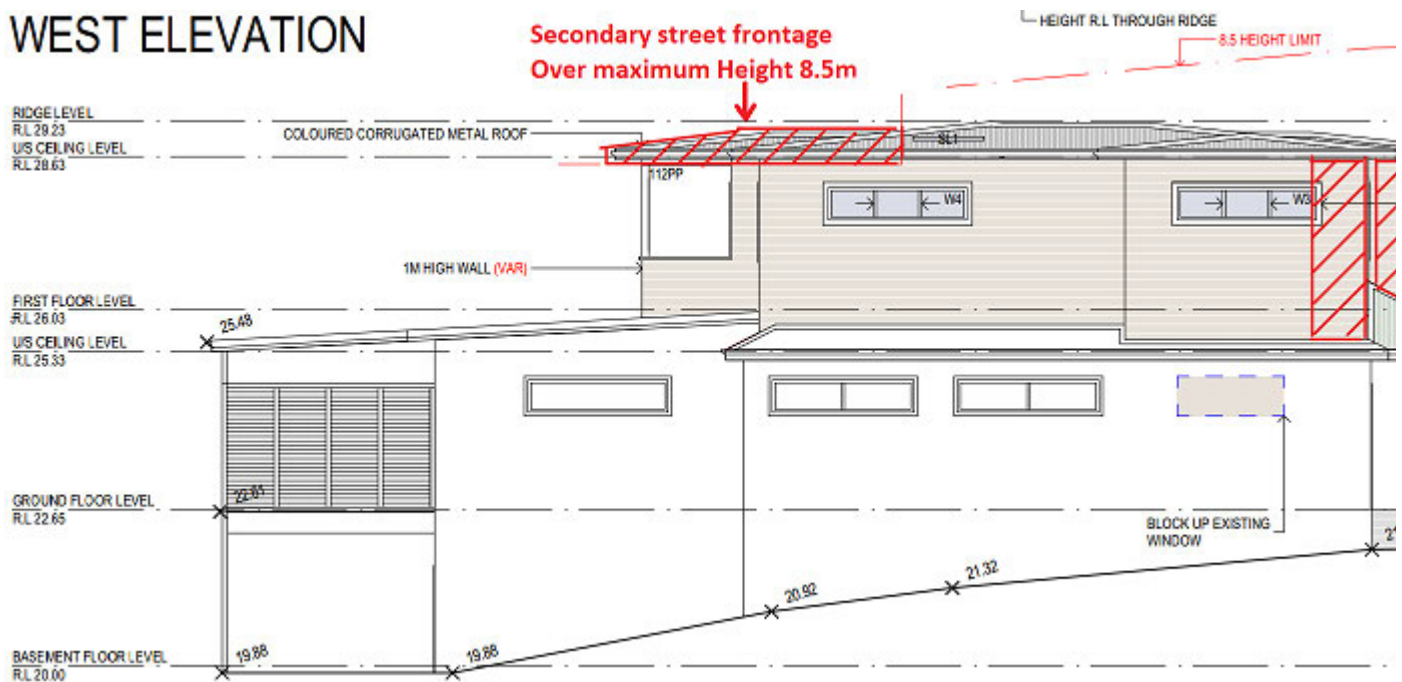
- b) *Where the street front building lines of neighbouring properties are variable and there is no prevailing building line in immediate vicinity i.e. where building lines are neither consistent nor established, a minimum 6m front setback generally applies. This street setback may also need to be set further back for all or part of the front building façade to retain sightlines and to maintain and enhance the streetscape.*

- c) Where the streetscape character is predominantly single storey building at the street frontage, the street setback is to be increased for any proposed upper floor level.

Section (b) of 4.1.4.1 Street Front Setbacks states “a minimum 6m front setback applies”. The planned addition to the existing front of the house is non-compliant, as it is in the 6m minimum front setback requirement.

Section (c) states “the street setback is to be increased for any proposed upper floor level”. All the properties in Bellevue Parade have abided by this ruling. The properties that have added an upper floor level have complied by the setback rulings by building the upper floor level back from the existing first floor.

WEST ELEVATION



4.1.4.2 Side setbacks and secondary street frontages

- a) Setbacks between any part of a building and the side boundary must not be less than one third of the height of the external wall of the proposed building.

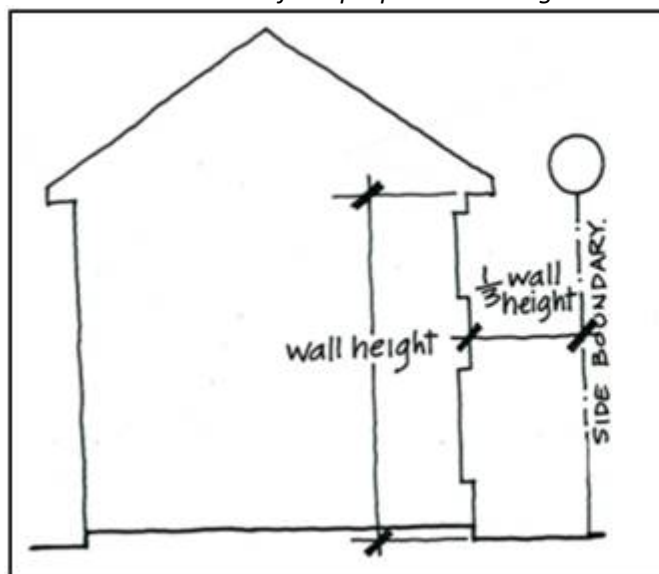
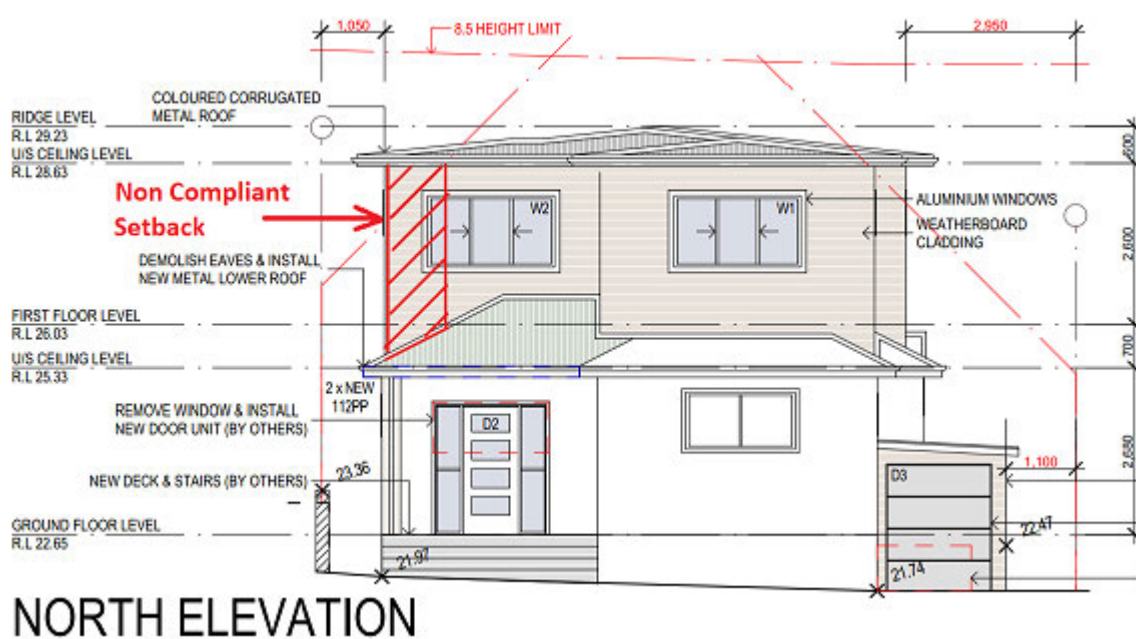


Figure 31 - Side Setback Diagram

- d) For secondary street frontages of corner allotments, the side boundary setback control will apply unless a prevailing boundary line exists. In such cases the prevailing setback of the neighbouring properties must be used. Architecturally the building must address both streets.

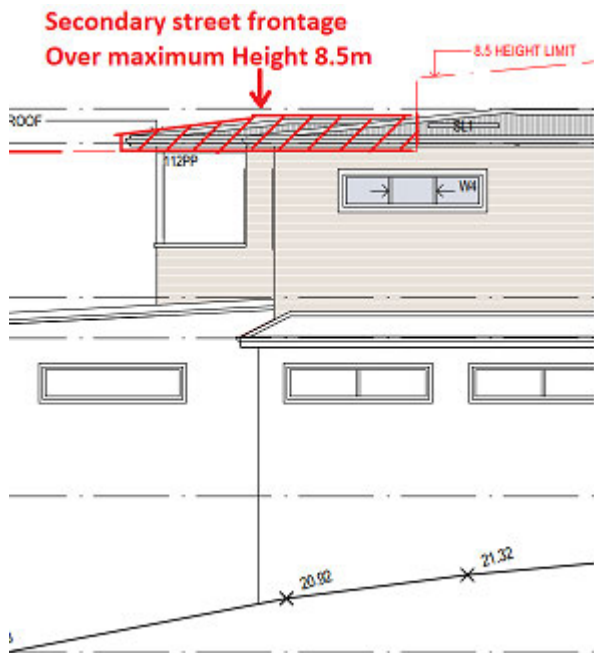
Section 4.1.4.2(a) Side Setbacks and Secondary Street Frontages states that “side boundary must not be less than one third of the height of the adjacent external wall”. Refer to Figure 31 – Side Setback Diagram above. The height of the eastern wall on the DA is 6,660mm. One third of the wall is 2,220mm. The minimum addition to the eastern side boundary has to be 2,220mm whereas the DA has it at 1050mm.

This highlights the non-compliance of the new addition with setbacks on the eastern and front boundaries in regards to the Setback rulings.



Section 4.1.4.2(d) states that “for secondary street frontages of corner allotments, architecturally the building must address both streets”. No 1 Bellevue Parade has frontages on both Bellevue Parade and Bellevue Place. Setback rulings must apply to both front (Bellevue Parade) and eastern side (Bellevue Place). Refer to Section 4.1.4 Setbacks (front, side and rear) “to maintain and enhance the existing streetscape and to ensure and enhance local amenity.”

No 1 Bellevue Parade’s secondary frontage (eastern side of the house) will be visually bulky and impacting the streetscapes. The complete non-complying structure of the proposed development will be viewed from Bellevue Place. It must comply with the setback rules and height restrictions. Therefore the 8.5m maximum height limit must apply to the full roof line. The roof height of 9m, which extends more than a third of the house, does not comply with the maximum height limit of 8.5m.



Conclusion:

DA2022/0653 does not comply with setbacks to the front, to the side and the eastern side. It also does not comply with height rulings and does not comply with the DCP and Tenacity rulings on view sharing.

We request Council to refuse DA2022/0653 due to the large number of non-compliance issues.